

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26720
Docket Number MS-27190

Elmer F. Thias, Referee

(Andrew Y. Fuller
PARTIES TO DISPUTE: (
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

"This claim is being filed on behalf of myself, A.Y. Fuller. I am a member of the Brotherhood of Railroad Signalmen. The claim is being filed against CSX Transportation (formerly L&N R.R.), hereafter referred to as the Carrier. The purpose of the claim is to reverse the Carrier's assessment in a discipline case which resulted in my suspension for 25 days."

OPINION OF BOARD: The Claimant had been employed by the Carrier for a period of seven years and was assigned to a position of Signal Maintainer at the time of the incident for which he was subsequently disciplined. Under date of June 4, 1985, the Carrier charged the Claimant with violation of Rules G-1 and 715 in the breaking of glass in the door of the Relay Room at Howell Tower on June 2, 1985. An Investigation was commenced beginning on July 17, 1985, and, due to several recesses was concluded on August 28, 1985. The Claimant was present throughout the Investigation and he was represented by a Representative of his Organization.

On September 9, 1985, the Carrier's Superintendent notified the Claimant that he had been found guilty as charged. He was assessed a twenty-five day actual suspension from service as a consequence of that finding. The Organization contested the discipline and perfected appeals on behalf of the Claimant to the Superintendent and to the Director of Labor Relations. In a conference held on June 23, 1986, the Organization and the Carrier agreed the Claim would be withdrawn. The settlement reached by the Representatives of the Organization and the Carrier is documented in a letter dated June 30, 1986.

Claimant has submitted the question of the discipline described above to this Board for review and determination. He recognizes that his General Chairman agreed to withdraw the Claim in a conference with the Director of Labor Relations but argues that was done without his knowledge or approval, no adjustment has been made and he has a right to pursue the Claim to the Board.

The Carrier offers several reasons why the Claim should be dismissed or denied and all need not be detailed. It is sufficient that we point out the Carrier's position includes development of the issue of whether the settlement of claims by designated representatives on the property is binding or whether such settlements may be set aside by the Board upon petition of a dissatisfied employee.

The issue has been considered and decided in a number of our prior Awards. The partial quotation from our Award 7061, which appears in our Award 11563, is appropriate to the Claim which is before us and reads as follows:

"The Adjustment of the claim on the property by Carrier's representative and the General Chairman of the Organization is binding upon the parties. ***We are obliged to hold that the claim involved in this docket was fully settled on or about August 29, 1949, and there is nothing presently before the Division to be decided. ***"

A similar result was expressed in our Award 26330 where we stated, in pertinent part:

"The Adjustment of the dispute on the property by the designated representative of the Organization and the appropriate appeals officer is binding on all parties and leaves nothing for the Board to decide."

Upon review and consideration of the entire record, the instant Claim must be dismissed.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

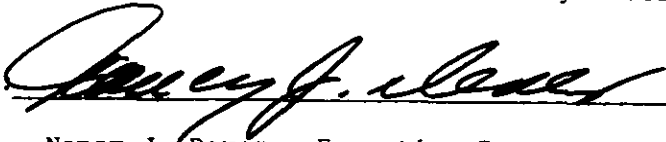
That the Claim is moot.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in cursive script, appearing to read "Nancy J. Dever", written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November 1987.